

- the 1993 approval of a request by the Coushatta Tribe of Louisiana to take land into trust in Allen Parish, La.;
- the 1994 approval of a request by the Sault Ste. Marie Tribe of Michigan to take land into trust in Detroit; and
- the 1997 approval of a request by the Kalispel Tribe of Washington seeking a determination under Section 20 to permit gaming on off-reservation land already held in trust for the tribe in Airway Heights, Wash.

In only one of these five cases – the request by the Potawatomi Tribe – did the governor concur in the Secretary’s finding. Accordingly, gaming was not permitted under the auspices of IGRA in the other four instances.<sup>65</sup>

Gover also testified that, since 1990, 12 parcels of land have been taken into trust for gaming in addition to the parcel sought by the Potawatomi tribe. All 12 fell under exceptions in Section 20 for lands on or contiguous to existing, former, new or restored reservations of the tribe making the request. These 12 were not subject to the Secretarial two-part determination found in Section 20(b)(1)(A) applicable to off-reservation gaming.

Also, IGRA specifically excluded from its prohibition gaming on lands taken into trust prior to Oct. 17, 1988. Similarly, Section 20(b)(1)(A) of IGRA does not apply to land taken into trust as a result of land settlement claims. Thus, while applications to take off-reservation land into trust for gaming command a high level of attention, they represent a relatively small portion of Indian gaming. There is obviously far more Indian gaming than these statistics suggest; much Indian gaming occurs “on-reservation.”

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<sup>65</sup>In the case of the Sault Ste. Marie Tribe, the tribe continues to pursue state approval to operate a casino in Detroit outside of the context of IGRA.